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Attorneys for Defendant  
SINCLAIR-DWYER & COMPANY, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MUTUAL HOLDINGS (BERMUDA)  
LIMITED,

Plaintiff,

vs.

SINCLAIR-DWYER & COMPANY, INC.,

Defendant.

Case No.: C07-04505 JL

**JOINT RULE 26(f) REPORT**

Conference Date: December 19, 2007  
Time: 10:30 a.m.

In accordance with Federal Rule of Civil Procedure 26(f), counsel for Plaintiff, Mutual Holdings (Bermuda) Limited ("Mutual Holdings") and Defendant, Sinclair-Dwyer & Co., Inc. ("Sinclair-Dwyer") met and conferred on November 14, 2007, and submit the following report of their meeting for the Court's consideration:

1           **1. Discussion of Claims, Defenses and Relevant Issues:**

2                   **A. Plaintiff's Claims**

3           On April 2, 2007, the Supreme Court of Bermuda entered a final judgment against  
4 defendant, Sinclair-Dwyer & Company, Inc., in an action brought by plaintiff, Mutual Holdings  
5 (Bermuda) Limited. On August 30, 2007, plaintiff filed the instant action in the Northern District  
6 of California to obtain a judgment recognizing the conclusiveness and enforceability of the  
7 Bermuda Judgment pursuant to the Uniform Foreign Money-Judgments Recognition Act, as  
8 adopted by California and codified at Cal. Civ. Proc. Code §§ 1713, *et seq.* Plaintiff asserts that  
9 the Bermuda Judgment meets the criteria for recognition and enforcement under Cal. Civ. Proc.  
10 Code §§ 1713, *et seq.*

11  
12           Defendant, in its Answer, denies the validity and enforceability of the Bermuda Judgment  
13 against it and asserts statutory, procedural and common law defenses in its Answer. Defendant  
14 did not file a counterclaim.

15  
16                   **B. Defendant's Claims**

17           Mutual Holdings seeks an order from the Court recognizing the validity and enforceability  
18 of a judgment, entered in favor of Mutual Holdings in Bermuda, under the Uniform Foreign  
19 Money-Judgments Recognition Act, as adopted by California and codified at Cal. Civ. Proc. Code  
20 section 1713, *et seq.*, or in the alternative, under principles of international comity.

21           Sinclair-Dwyer denied each of the plaintiff's allegations regarding the validity and  
22 enforceability of the Bermuda judgment, and asserted several affirmative defenses in its answer.  
23 Specifically, defendant maintains that the judgment is not enforceable under Cal. Civ. Pro. Code  
24 section 1713.4(a)<sup>1</sup> because, among other things: the Bermuda court lacked personal and subject  
25 matter jurisdiction; the judgment was rendered under a system without procedures ensuring due  
26 process of law; and that enforcement of the judgment would directly contravene California's law

27  
28           <sup>1</sup> Defendant also maintains that the Court should exercise its discretion and not enforce the  
Bermuda judgment under Cal. Civ. Proc. Code Section 1713.4(b) and 1713.7.

1 and policies. Defendant also lacks sufficient information to admit or deny that diversity of  
2 citizenship exists between the parties, and thus, questions the Court's jurisdiction over the subject  
3 matter of the lawsuit.

4 **C. Relevant Issues**

5 The parties convened a Rule 26 Conference by telephone on November 14, 2007.  
6 Defendant's counsel, Mr. Kenney, started the conference call by informing plaintiff's counsel that  
7 his client, Sinclair-Dwyer & Company, Inc., *will* be filing a petition for bankruptcy protection  
8 under Chapter 11 of the Bankruptcy Code in the first week of December, 2007. Mr. Kenney  
9 represented that his client's decision to file for bankruptcy protection *is a certainty*. The parties  
10 agreed that, in light of Mr. Kenney's announcement, it did not make sense to engage in further  
11 litigation planning immediately.  
12

13 **2. Initial Disclosures:**

14 Rule 26 Disclosure Statements have been not been exchanged in anticipation of the  
15 defendant's impending bankruptcy filing.

16 **3. Formal Discovery:**

17 The parties agreed that there was no immediate need to discuss a discovery plan in light of  
18 Mr. Kenney's representation that the defendant will file for bankruptcy protection within the next  
19 20 days.

20 **4. Early Settlement or Resolution:**

21 Although the parties agreed to Early Neutral Evaluation in accordance with the ADR  
22 Local Rules and filed the appropriate certifications with the Court, it appears unlikely that the  
23 parties will engage in Early Neutral Evaluation before the defendant files for bankruptcy  
24 protection.

25 **5. Trial Date:**

26 The parties agree that the defendant's impending bankruptcy filing will remove or  
27 postpones the need for a trial date in this case.  
28

**6. Certification of Electronic Signature Authority:**

Plaintiff's counsel, Marc J. Weinstein, hereby attests that Defendant's counsel, Maureen

A. Rodgers, authorized the use of her electronic signature on this Joint Rule 26(f) Report.

/s/ Maureen A. Rodgers

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Dated: November 28, 2007